

requiring the state to indemnify former or current state employees for up to \$10,000 in attorney's fees incurred in defending against criminal prosecutions if the conduct for which the employee is being prosecuted could also give rise to a civil suit in which the state could be held liable. This indemnification would have applied only if the case were dismissed without a guilty or no-contest plea or if the defendant were found not guilty after trial or appeal. The bill would also have substituted the term "malice" for "bad faith" in describing conduct in the statute for which the state will not be liable.

GOVERNOR'S  
REASONS  
FOR VETO:

The Governor said the bill would have broadened the scope of the state's liability too much by requiring it to indemnify judgments unless a court found that the employee acted with malice instead of with bad faith. He affirmed the state's duty to stand behind state employees with legal representation and indemnification when they have faithfully performed their duties but said the state should not accept liability for any acts committed in bad faith. In addition, the Governor said, the section indemnifying employees against criminal prosecutions is too vague and "does not adequately define when the state would be obligated to pay for an employee's legal fees."

SPONSOR'S  
VIEW:

Rep. Terral Smith said there is no real difference between malice and bad faith. He said the term "bad faith" was switched to "malice" in the bill was because malice is more clearly defined in case law. He noted that neither the current statute nor the bill contains a definition of either term. "This was the one good bill for state employees we passed this session," Rep. Smith said. "The only reason I think he (Gov. White) vetoed the bill is because I'm a Republican. It's the dumbest deal I've ever seen," he said.

NOTES: The House Study Group analysis of HB 226 appeared in the May 6 Daily Floor Report.

Health-service area boundaries  
(HB 341 by Stiles)

DIGEST: Current law (VACS art. 4418h) requires the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Department of

Human Resources, and other health-related state agencies to divide the state into regions for administrative and regulatory purposes. Those regions must coincide with the health-service areas that federal law requires the Governor to establish. HB 341 would have allowed the agencies to establish administrative or regulatory regions different from those established under federal law.

GOVERNOR'S  
REASONS  
FOR VETO:

The Governor acknowledged that the bill would give health-related agencies greater administrative flexibility, but said it would eliminate the Governor's role in assuring that related health-service agencies coordinate programs and data collection. It would therefore frustrate efforts to standardize health-planning and data-collection, which he said were "essential in assessing needs, particularly in those programs that are based on interagency effort."

SPONSOR'S  
VIEW:

Rep. Stiles said that the Governor's staff did not understand the intent of the bill. Federal law no longer requires the state to designate health-service areas, so there is no reason why state agencies cannot use different boundaries if the need arises. He cited as an example the Department of Human Resources' plan to close its Beaumont regional office as an economy move. Under current law DHR would have to move the office to Tyler or Longview; HB 341 would have permitted the department to move to Houston, a shorter distance for both the employees of the office and the clients it serves. Rep. Stiles said DHR had no objection to the bill and no objection was raised in the House. When the bill went to the Senate, the Governor's office asked that consideration be delayed while it examined the bill but in the end raised no objection. Rep. Stiles said that neither he nor the Senate sponsor, Sen. Parker, was contacted prior to the veto.

Expenses in defending a will  
(HB 482 by Wright)

DIGEST:

The bill would have permitted devisees, legatees, and beneficiaries of a will to be paid necessary expenses and attorney's fees for defending or prosecuting a will to have it admitted to probate. Current law grants expenses and fees only to the